

**IN THE NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION,  
NEW DELHI**

**REVISION PETITION NO. 3377 OF 2016**

(From order dated 18.10.2016 in Appeal No. 152 of 2015 of the  
Telangana State Consumer Disputes Redressal Commission)

1. Mrs. Angadi Vijaya Laxmi,  
W/o Bhaskar,

2. Angadi Mahesh Kumar  
S/o Bhaskar, Rep. by his GPA Holder  
Angadi Vijaya Laxmi

Both are R/o 1-24-253/1, Flat No. 32,  
Sri Sainagar, Lotugunta, Alwal, Secunderabad  
Telangana State-500015

.... Petitioner

Versus

Modi & Modi Constructions,  
Rep. by its Partner Soham Modi,  
H. NO. 5-4-187/3 & 4, 2<sup>nd</sup> Floor,  
MG Road, Secunderabad-500003

.... Respondent

**BEFORE :**

**HON'BLE MR. JUSTICE R.K. AGRAWAL, PRESIDENT  
HON'BLE MRS. M. SHREESHA, MEMBER**

For the Petitioner : Mr. M. Reddy, Advocate

For the Respondent : Nemo

**Pronounced on : 28<sup>th</sup> March, 2019**

**ORDER**

**MRS. M. SHREESHA, MEMBER**

Challenge in this Revision Petition under Section 21 (b) of the Consumer Protection Act, 1986 (in short "the Act") is to the order dated 18.10.2016 passed by the Telangana State Consumer Disputes Redressal Commission (in short "the State Commission") in First Appeal No. 152 of 2015. By the impugned order, the State Commission has concurred with the finding of the



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Complainants reducing the 9 months span period to 4 months. The Developer paid ₹2,43,750/- as an instalment and obtained undated cheques from the husband of the first Complainant. The details of the payment of ₹9,75,000/- by the Developer towards Housing Loan is detailed as hereunder:

Amount	Date of credit to A. Bhaskar's account by M/s Modi	Date of debit from Bhaskar account to AV Mahesh Kumar A/C	Date of Credit to AV Mahesh Kumar A/C from A. Bhaskar	Date of debit to M/s Modi Account from Mahesh Kumar A/C
243750	17-Sep-13	21-Sep-13	21-Sep-13	24-Sep-13
243750	28-Sep-13	10-Oct-13	10-Oct-13	17-Oct-13
243750	21-Oct-13	25-Oct-13	25-Oct-13	31-Oct-13
243750	08-Nov-13	13-Nov-13	13-Nov-13	18-Nov-13
<b>975000</b>				

3. On 20.11.2013, after the fulfilment of margin money, the Developer registered the Villa in the name of the Complainants, though it was not fit to be occupied as forcible possession was given, the Developer got the entire amount released from the financier without intimating the Complainant. The details of the amount released are as follows:

S. No.	Date	Amount (₹)
1	27.11.2013	12,48,000/-
2	27.11.2013	6,22,000/-
	Total	18,70,000/-

The remaining amount of ₹3,30,000/- was retained with the financier awaiting the Occupation Certificate from the Developer. Despite several requests and repeated correspondence, the Developer has failed to respond, but further demanded ₹14,20,690/- adding the service tax of ₹1,15,690/-.



months. It is admitted that an amount of ₹9,75,000/- was paid to the Complainant in four instalments. It was denied that the Complainants were forced to register Villa despite the fact that it was not ready. It was averred that dues of ₹14,20,690/- was inclusive of interest on late payment of instalments together with service tax of ₹1,15,690/-, which is payable to the Government authorities. It was pleaded that the Villa was complete in all respects except for the sanitary fittings, which are done just before the handing over of the possession of the subject Villa.

6. The Developer also filed suit for recovery of the dues bearing No. OS 98 of 2013 on the file of 1<sup>st</sup> Additional Chief Judge of Secunderabad. It was averred that the Complainants have withheld the payments of the instalments and that the Developer received only ₹35,70,000/- and further an amount of ₹11,23,523/- is still due towards final settlement of the cost of the Villa along with interest and service tax, interest on delayed payments, corpus fund etc. A legal notice was issued on 18.04.2014 calling upon to pay an amount of ₹20,48,497/-. It is pleaded that as the Complainants were liable to pay these amounts, there is no deficiency of service on their behalf.

7. The District Forum based on the evidence adduced allowed the Complaint in part directing the Developer to deliver the Villa No. 46 after receiving the balance sale consideration of ₹3,30,000/- from the financier on production of Occupation Certificate and also directed the Developer to

jurisdiction of civil court, which is pending adjudication. Admittedly, the villa in question is not completed and still some minor works are remained to be attended. For that matter, both the parties are throwing burden on each other. The Purchasers state that they are ready to instruct their financier to release the amount of Rs.3,30,000/- provided the Builder obtains the Occupancy Certificate and the Builder on other hand states that if the Purchasers clear-off all the dues, they would complete the left-over minor works. As can be seen from the photos exhibited, most of the works in the Villa are completed except fixing of fixtures in toilets and other minor works. As a matter of fact, except filing the account statement, the Builder has not made any demand demanding the Purchasers to pay the dues amount. From the documents exhibited, it is clear that the Builder has agreed to deliver the possession of the villa within one month after receiving the final disbursements.

20) It is only after the Purchasers got issued a notice dated 12.03.2014 under Ex.A15, the Builder got issued a reply on 10.04.2014 under Ex.A16 claiming an amount of Rs.20,48,497/- inclusive of service tax, corpus fund and interest upto 05.04.2014, without furnishing the particulars of entitlement. Again, the Purchasers got issued another notice on 21.04.2014 under Ex.A17, to which, no reply is given by the Builder. Instead, laid the suit bearing OS No.98/2014 for recovery of Rs.20,48,497/- before the I-Addl. Chief Judge, City Civil Court at Secunderabad, which, admittedly, is pending adjudication."

10. Dissatisfied by the said order, the Complainants preferred this Revision Petition on the ground that the State Commission did not take into consideration that the Developer has already received ₹35,70,000/- out of ₹39,00,000/- and it was only ₹3,30,000/-, which needed to be paid by the Housing Financer and that the Developer cannot claim interest on ₹3,30,000/- because there was inordinate delay on their behalf in handing over possession and that the State Commission ought to have awarded the compensation amount prayed for.



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13. In the result this Revision Petition is allowed in part directing the Developer to pay the interest @ 9% p.a. on the amounts paid by the Complainant i.e. ₹35,70,000/- from 01.03.2014 till the date of production of Occupation Certificate together with costs of ₹10,000/-. Time for compliance is four weeks, failing which, the amount shall attract interest @ 12% p.a. for the same period.

Sd/-

.....  
( R.K. AGRAWAL, J. )  
PRESIDENT

Sd/-

.....  
( M. SHREESHA )  
MEMBER

Free Certified Copy  
Serial No. of the Application \_\_\_\_\_  
Date of receipt of Application \_\_\_\_\_  
Case No. 3377/2016  
Name of the Applicant \_\_\_\_\_  
Date of disposal 28/3/2019  
Date of receipt of copy 04/4/19  
Date of distribution of Free Certified copy of order \_\_\_\_\_  
By Hand \_\_\_\_\_  
By Post 04/04/19

Brahm/

  
Assistant Registrar/ Section Officer  
National Consumer Disputes  
Redressal Commission, New Delhi